

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 626**

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**Introduced by Senator Calderon**

February 18, 2011

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An act to add Division 8.9 (commencing with Section 22992) to the Business and Professions Code, and to ~~amend Sections 6592 and 6901 of, to add Section 6471.5 to, and to add Article 1.7 (commencing with Section 6480.50) to Chapter 5 of Part 1 of Division 2 of, the Revenue~~ *add Section 7059 to the Revenue* and Taxation Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

SB 626, as amended, Calderon. ~~Cannabis State Board of Equalization: cannabis and cannabis product certificate taxation: products: study.~~

Existing law provides for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarettes or tobacco products that are engaged in business in California, and prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling those cigarette and tobacco products unless they are licensed. Existing law also imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would ~~create the Cannabis Certification and Regulation Act of 2011 and provide for the certification by the State Board of Equalization of growers, wholesalers, retailers, and transporters of cannabis or cannabis products that are engaged in business in California. The bill would require these certificated growers, wholesalers, retailers, and transporters to keep records of every sale, transfer, or delivery of~~

~~cannabis or cannabis products, as specified. The bill would authorize any peace officer and specified employees of the board to conduct inspections, as provided. It would prohibit growers, wholesalers, retailers, and transporters from selling or purchasing cannabis or cannabis products without a certificate require the State Board of Equalization to conduct a study, and submit the results of that study to the Legislature by a specified date, to determine, among other things, the most efficient means to obtain compliance under the Sales and Use Tax Law by sellers of cannabis and cannabis products sellers engaged in business in this state, as provided.~~

~~The bill would provide for the seizure of cannabis or cannabis products that are sold or purchased in violation of specified provisions and impose specified penalties therefor, including certificate revocation or suspension, civil penalties, and criminal penalties. By imposing criminal penalties, the bill would create a state-mandated local program.~~

~~The bill would require each wholesaler to prepay the retail sales tax on its gross receipts derived from the sale of cannabis and cannabis products, as specified. This bill would create the Cannabis and Cannabis Products Compliance Fund, as specified.~~

~~This bill would require the Bureau of State Audits to conduct a performance audit and report its findings to the board and Legislature, as specified.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~This bill would specify that its provisions become operative on July 1, 2012.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes-no.~~

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Division 8.9 (commencing with Section 22992)
- 2 is added to the Business and Professions Code, to read:

DIVISION 8.9. CANNABIS CERTIFICATION AND  
REGULATION ACT OF 2011

~~CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS~~

22992. This division shall be known, and may be cited, as the Cannabis Certification and Regulation Act of 2011.

22992.2. The Legislature finds and declares all of the following:

(a) The current controversies surrounding California's medical marijuana dispensaries authorized to sell medical marijuana under the Compassionate Use Act, enacted by the voters in 1996, have created problems for the patients, dispensaries, law enforcement, and local governments. Many issues about the legal sale and distribution of medical marijuana remain unaddressed.

(b) Although many dispensaries operate within the law, there is clear evidence that some are intentionally evading taxes and may be laundering illegally acquired money and illegally distributing marijuana for other than medical purposes.

(c) The State Board of Equalization, under its sales tax authority, has formally registered nearly 300 medical marijuana dispensaries and issued seller's permits. It has also identified over 500 unregistered dispensaries.

(d) Local governments, in allocating the number and location of dispensaries, are rightly unwilling to authorize distribution centers when current state laws are not clear on how to prevent unlawful activities.

(e) Law enforcement authorities have legitimate concerns about misuse of these dispensaries as sources of illegal distribution and consumption.

(f) Dispensaries with the best intentions do not have a clearly defined legal framework for acquiring and distributing medical marijuana, and are put unnecessarily at risk in the act of acquiring an illegal product for legal resale.

(g) In 2003 the Legislature enacted the California Cigarette and Tobacco Products Licensing Act of 2003 (Division 8.6 (commencing with Section 22970) of the Business and Professions Code) to provide for the licensure by the State Board of Equalization of manufacturers, distributors, and retailers of cigarette and other tobacco products in California. For the first time in California, the distribution and sale of cigarette and tobacco

1 products were prohibited pursuant to Division 8.6 (commencing  
2 with Section 22970) of the Business and Professions Code unless  
3 those involved in every aspect of the trade were licensed.

4 (h) That act authorized the state, through the State Board of  
5 Equalization, to suspend or revoke the license of any licensee in  
6 violation of the strict regulations governing the legal distribution  
7 of tobacco products. The act established criminal penalties for  
8 selling counterfeit cigarette and tobacco products, and imposed  
9 fines or imprisonment for possessing, selling, or buying fraudulent  
10 cigarette tax stamps.

11 (i) The primary purpose of the act was to prevent the unlawful  
12 distribution of cigarettes and the loss of state tax revenue, which  
13 had been declining by hundreds of millions of dollars due, in part,  
14 to unlawful distributions and untaxed sales by well-organized  
15 criminals.

16 (j) The act has been a success. According to a June 2006 report  
17 by the State Auditor, cigarette tax compliance has improved, and  
18 there was a positive effect on tax revenues from cigarettes and  
19 tobacco products.

20 (k) It is the intention of the Legislature in enacting similar  
21 legislation to license and control the distribution of medical  
22 marijuana to do all of the following:

23 (1) Enable state and local governments to control sales and  
24 distribution of marijuana in the same way the tobacco licensing  
25 act has stemmed the flow of illegal tobacco products into the  
26 market place.

27 (2) Increase revenue for the state and local governments.

28 (3) Provide assurances to the dispensaries that are now paying  
29 sales tax that the state has an effective mechanism to collect tax  
30 from their illegal competitors and shut them down if necessary.

31 (4) Enable the state to control the current legal distribution of  
32 medical marijuana from the cultivator to the consumer and help  
33 law enforcement authorities stop illegal sales in medical marijuana  
34 dispensaries and elsewhere to minors and other individuals.

35 (5) Allow the state to prescribe secure packaging requirements  
36 to carry out the intent of the division.

37 *SEC. 2. Section 7059 is added to the Revenue and Taxation*  
38 *Code, to read:*

39 *7059. (a) The board shall conduct a study to determine the*  
40 *most efficient means to obtain compliance under this part by sellers*

1 of cannabis and cannabis products that are engaged in business  
2 in this state in order to enhance collection of applicable state and  
3 local sales and use tax on retail sales of cannabis or cannabis  
4 products. In conducting the study, the board shall consider all of  
5 the following:

6 (1) The current strategies of the board that encourage  
7 compliance with the Sales and Use Tax Law from cannabis or  
8 cannabis products sellers engaged in business in this state.

9 (2) The advantages or disadvantages of implementing a stamp  
10 system for cannabis or cannabis products similar to that used for  
11 cigarettes under the California Cigarette and Tobacco Products  
12 Tax Law (Part 13 (commencing with Section 30001)).

13 (3) Strategies that would assist the board in identifying sellers  
14 of cannabis or cannabis products, including the use of federal,  
15 state, or local law enforcement agencies.

16 (4) Strategies that would provide incentives for cannabis or  
17 cannabis product sellers to register and pay the tax imposed by  
18 this part without the possibility of self-incrimination.

19 (5) The potential administrative costs to the board for  
20 implementing and administering any system that the board  
21 identifies that would enhance collection of applicable state and  
22 local sales and use tax on the sale and use of cannabis or cannabis  
23 products in this state.

24 (b) The board shall submit a report to the Legislature with the  
25 results of the study no later than January 1, 2013. In the event the  
26 report includes a strategy that is feasible and would benefit the  
27 state and local sales and use tax revenue stream and minimize  
28 noncompliance by cannabis or cannabis products sellers engaged  
29 in business in this state, the report shall also recommend a strategy  
30 for implementation.

31 (c) (1) The requirement for submitting a report imposed under  
32 subdivision (b) is inoperative on January 1, 2017, pursuant to  
33 Section 10231.5 of the Government Code.

34 (2) A report to be submitted pursuant to subdivision (b) shall  
35 be submitted in compliance with Section 9795 of the Government  
36 Code.

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**All matter omitted in this version of the bill  
appears in the bill as introduced in the  
Senate, February 18, 2011. (JR11)**

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